IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY ,THE FIFTEENTH DAY OF JULY TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE T.VINOD KUMAR

COMPANY APPLICATION NO. 16 OF 2022

IN

C.P. NO: 113 OF 2002

IN THE MATTER OF THE COMPANIES ACT, 1956

AND

IN THE MATTER OF M/S MERBANC FINANCIAL SERVICES LIMTIED (In liq)

Between:

M/s. Merbanc Financial Services Limited (In Liqn), Rep by the Official Liquidator, Attached to the Hon'ble High Court, 1st Floor, Corporate Bhawan, Bandlaguda, Nagole, Hyderabad 500 068. ...**Applicant**

Company Application Under Sections 457 (1) (e) and 460 (4) of the Companies Act, 1956 R/w. Rules 275, 276 and 290 of the Companies (Court) Rules, 1959 praying that this Hon'ble Court may be pleased to

i. Permit the Official Liquidator to declare and disburse 2nd dividend 23.63percent in a Rupee for an amount of Rs. 56,69,588/- to the Unsecured Creditors against the admitted unsecured debt as per Annexure - E.

ii. Permit the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the 2nd dividend to Unsecured Creditors out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959.

iii. Permit the Official Liquidator to dispense with the publication of notice of dividend in newspapers.

iv. Permit the Official Liquidator to send Individual notices of dividend in Form No.138 along with receipt to the Unsecured Creditors of the Company (In Ligin).

v. Permit the Official Liquidator to fix the schedule for making payment.

vi. Authorize the Official Liquidator to pay dividend due to any deceased creditor to his legal heirs upon production by such legal heirs, a family member certificate issued by MRO or such other certificate instead of producing a succession certificate and also upon furnishing personal indemnity, in terms of Rule 20 of the Companies (court) Rules, 1959.

vii. Permit to Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of 2nd dividend and to effectively / implement the orders of this Hon'ble Court in that regard.

viii. Permit the Official Liquidator to transfer the un-paid dividend, if any, after expiry of 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956.

ix. Order that the costs of this application do come out of the assets of the Company (In Liqn.)

This Application coming on for orders upon reading the Judge's summons and the affidavit dated 19-01-2022 and filed by Sri Varaha Santoshi Jagirdar Official Liquidator in support of the Company application and upon hearing the arguments of Sri J. SRINADH REDDY, Counsel for the Applicant

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T. VINOD KUMAR

COMPANY APPLICATION No. 16 of 2022
In
COMPANY PETITION No.113 of 2002

ORDER:

This Application along with Judge's Summons is filed under Section 457 (1) and 460(4) of the Companies Act, 1956 (for short 'the Act') read with Rule 275, 276 and 290 of the Companies (Court) Rules, 1959 (for short 'the Rules').

The Official Liquidator prays for the following reliefs:

"i. Permit the Official Liquidator to vary the list of Creditors of M/s.Merbanc Financial Services Limited (in Liqn) by adding the name of Sri Yogesh Shenoy in second part of the list and take the varied Form No.71 as per Annexure-D on record.

ii. Direct the Registrar to notify the said Form No.71 on the notice board of this Court in terms of Rule 169 of the Rules.

iii. permit the Official Liquidator to declare and disburse 2nd dividend @ 23.63% in a rupee for an amount of Rs.56,69,588/- to the unsecured creditors against the admitted unsecured debt as per 'Annexure-E'.

iv. permit the Official Liquidator to open a separate dividend account in Punjab National Bank and pay the 2nd dividend to unsecured creditors out of the said account, in terms of Rule 290 of the Companies (Court) Rules, 1959.

v. permit the Official Liquidator to dispense with the publication of notice of dividend in newspapers.

vi. permit the Official Liquidator to send individual notices of dividend in Form No.138 along with receipt to the unsecured creditors of the Company (In Liqn).

vii. permit the Official Liquidator to fix the schedule for making payment.

viiii. Authorize the Official Liquidator to pay dividend due to any deceased creditor to his legal heirs upon production by such legal heirs, a

family member certificate issued by MRO or such other certificate instead of producing a succession certificate and also upon furnishing personal indemnity, in terms of Rule 280 of the Rules.

ix. permit the Official Liquidator to take all necessary actions and steps which are incidental to declaration and payment of 2nd dividend and to effectively implement the orders of this Hon'ble Court in that regard.

x. Permit the Official Liquidator to transfer the un-paid dividend, if any, after the expiry of 6 (six) months period to Companies Liquidation Account, in terms of Section 555 of the Companies Act, 1956.

xi. order that the costs of this application do come out of the assets of the Company (In Liqun.)."

By the affidavit filed along with the Judge's Summons, the Official Liquidator has stated that as per the order of this Court dt.29-11-2017 in C.A.Nos.858 and 859 of 2017, the Official Liquidator declared a dividend @ 100% to the secured and preferential creditors and a dividend @37.27 paise in rupee to unsecured creditors of their admitted amounts.

Learned Official Liquidator submits that after such disbursement and after deducting an amount of Rs.27,423.49 Ps towards Central Government Fees, auditors fees etc, an amount of Rs.56,97,011.49 Ps available to the credit of the Company in liquidation, and as 100% amount was already disbursed to the secured creditors and professional creditor towards their admitted amount, the Official Liquidator proposes to make various payments as noted above.

Official Liquidator has now filed the present application to declare and disburse 2nd installment of dividend @ 23.63% to the unsecured

creditors amounting to Rs.56,69,588/- as per 'Annexure-E' annexed to this application.

Heard learned Standing Counsel appearing for the Official Liquidator and perused the record.

Since this Court by order dt.29-11-2017 in C.A.Nos.858 and 859 of 2017 permitted the Official Liquidator to first to pay dividend to the unsecured creditors of their admitted amounts from the balance amount available with the Official Liquidator in the year 2017; that as no further claims are stated to have been received by the Official Liquidator till date, and having regard to the fact that the said sum is available for declaration and disbursement of dividend, permission is accorded to the Official Liquidator to :

(i) to vary the list of creditors of M/s.Merbanc Financial Services Limited(in Liqn) by adding the name of Sri Yogesh Shenoy as second part of the list and take the varied Form No.71 as 'Annexure-D' on record and direct the Registrar to notify the said Form No.71 on the notice board of this Court in terms of Rule 169 of the Rules.

(ii) to declare and disburse the 2nd instalment of dividend @ 23.63% in a Rupee for an amount of Rs.56,69,588/- to the

unsecured creditors against the admitted unsecured debt as per Annexure-E.

(iii) to open a separate dividend account in Punjab National Bank and pay the 2nd dividend to unsecured creditors out of the said account in terms of Rule 290 of the Rules. The Official Liquidator is also permitted to dispense with the publication of notice in news papers since it would entail considerable expenditure.

(iv) to send individual notices of dividend in Form No.138 along with receipt to the unsecured creditors of the Company (In liqn.) and fix schedule for making payment.

(v) to pay dividend due to any deceased creditor to his legal heirs upon production of such legal heirs, a family member certificate issued by MRO or such other certificate instead of producing a succession certificate and also upon furnishing personal indemnity, in terms of Rule 280 of the Rules.

(vi) to take all necessary actions and steps which are incidental to declaration and payment of final dividend and to effectively implement this order, and

(vii) to transfer the un-paid dividend, if any, after expiry of six (06) months period to the Companies Liquidation Account in terms of Section 555 of the Act.

The Official Liquidator is also permitted to meet the costs of this application from out of the estate of the Company-in-Liquidation.

This application is ordered accordingly. No costs

// TRUE COPY //

SD/-K.SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

To

1. The Official Liquidator, **M/s. Merbanc Financial Services Limited (In Liqn.)** Limited (In Liqn) Office at 1st floor Corporate Bhawan, Nagole, Bandlaguda Thattiannaram Village Hayathnagar Mandal, Ranga Reddy District, Telangana State Pin Code 500 680.
2. The Registrar of Companies, Ministry of Corporate Affairs, Government of India 2nd floor Corporate Bhawan, Nagole, Bandlaguda, Thattiannaram Village Hayathnagar Mandal, Ranga Reddy District Telangana State Pin Code 500 680.
3. The Regional Director, South Eastern Region, Ministry of Corporate Affairs, 3rd floor Corporate Bhawan, Nagole, Bandlaguda, Thattiannaram Village Hayathnagar Mandal, Ranga Reddy District Telangana State Pin Code 500 680
4. The Section Officer, O.S. Section, High Court for the State of Telangana at Hyderabad
5. One CC to Sri J. Sreenadh Reddy, Counsel for Official Liquidator, High Court for the State of Telangana at Hyderabad.
6. Two C.D.Copies
7. One Spare Copy

DATED 15/07/2022

ORDER

COMPANY APPLICATION

NO. 16 OF 2022

IN

C.P NO. 113 OF 2022

ORDERING THE COMPANY APPLICATION

WITHOUT COSTS

18/8/22